

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 229/2013

Jodhpur, this the 03rd day of March, 2014.

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)

Suraj Parihar S/o Late Sh. Suresh Parihar, aged about 20 years, resident of Kutton Ka Bada, Soorsagar, Jodhpur.

.....Applicant

By Advocate: Mr R.S. Saluja

Versus

1. Union of India through the General Manager, North Western Railway, Near Jawahar Circle, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jodhpur.
3. The Assistant Personnel Officer, North Western Railway, Jodhpur.
4. Senior Section Engineer/Railways, North Western Railway, Dhanera, Jodhpur.
5. Assistant Divisional Engineer, North Western Railway, Samdari, Jodhpur.
6. Assistant Personnel Officer, North Western Railway, Jodhpur

.....Respondents

By Advocate : Mr Vinay Jain.

ORDER (Oral)

The present OA has been filed by the applicant against the order Annexure A/1 dated 20.04.2012 by which respondent department has ordered to terminate the services of the applicant on

account of adverse remarks in his verification report of character & antecedents by the police.

2. Short facts of the case, as averred by the applicant, are that the applicant's father Shri Suresh Parihar was employee of the North Western Railway under the Chief Medical Officer, Jodhpur and he expired on 19.10.2009. After death of father of the applicant, the applicant was considered for compassionate appointment by the respondent-department and offered appointment to the post of Trainee Trackman vide Annex. A/4 dated 02.01.2012 subject to the conditions stipulated therein, which amongst other terms & conditions for appointment to the said post, stipulates that in case character and antecedents of the applicant is not found correct, his services will be terminated without any notice to him. The applicant agreed to the terms and conditions specified in letter Annex. A/3 and he was appointed as Trainee Trackman as per conditions in the offer of appointment Ann.A/4. It has been averred by the applicant that at the time all these things happened, a criminal case registered against him in the year 2005 was pending consideration before the Appellate Court in the shape of Cr. Appeal No. 53/2011 before the learned Special Judge (SC/ST Cases), Prevention of Atrocities Act, Jodhpur and the aforesaid appeal was allowed by the Appellate Court and the applicant was acquitted of the alleged offences against him (Annex. A/6). On account of the aforesaid case, in the character verification report issued by the office of the Commissioner of Police, Jodhpur it was specifically stated that a case under Section 147, 148,

149, 458, 323, 354 and 427 IPC was filed against the applicant in which he has been acquitted on 03.03.2012. In view of this verification report, the Assistant Divisional Engineer, North Western Railway, Samdari vide letter dated 20.04.2012 (Annex. A/1) directed to terminate the services of the applicant and the applicant was relieved after being paid his salary w.e.f. 26.03.2012 without there being any written order in this regard at that point of time. The applicant submitted a representation on 27.04.2012 informing that he has been acquitted in the criminal case but he still stand terminated from the services only on account of the fact that at one stage a criminal case was registered against him. The applicant has further averred that his termination has taken place in terms of condition No. 4 incorporated in the offer for appointment, otherwise, this is not a case where the applicant has suppressed the information with regard to pendency of criminal case, therefore, the applicant has filed this OA seeking following reliefs :

- I. The order dated 20.04.2012 (Annex. A/1) may kindly be quashed.
 - II. That consequent to aforesaid, the applicant may kindly be directed to be reinstated in service with all consequential benefits as if the impugned order has never been passed.
 - III. Any other favourable order which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
3. By way of reply the respondents have averred that the applicant's mother submitted application dated 06.06.2011 for giving

appointment to the applicant on compassionate ground and thereafter as per procedure the applicant was called for screening test and was found suitable and eligible, therefore, he was called upon to submit verification form and the applicant submitted verification form on 20.12.2011 (Annex. R/1). After submitting verification form by the applicant, an offer of appointment dated 21.12.2011 was issued clearly mentioning that the verification form which was submitted by the applicant would be sent to Collector for verification and if it is found that character and any other verification is not correct, then service of the applicant will be terminated. The verification form of the applicant was sent to Office of Police Commissioner for verification and the office of the Police Commissioner has informed to the respondent-department vide letter dated 05.03.2012 that a criminal case for offence under Section 147, 148, 149, 458, 323, 354 and 427 IPC is pending for trial (Annex. R/2) whereas in verification form submitted by the applicant it has been mentioned that no criminal case was ever lodged against him nor any criminal case is pending, thus the applicant concealed the fact that criminal case was pending against him, therefore, in view of concealment/suppression of fact, the services of the applicant has rightly been terminated and consequently, the applicant is relieved vide letter dated 15.05.2013. Therefore, respondents have prayed to dismiss the OA with costs.

4. Heard both the parties. Counsel for the applicant contended that a person's character cannot be termed to be blameworthy

merely on account of filing of a criminal case against him and the result of the criminal case has ultimately to be seen to adjudge the character of the person and here is a case wherein criminal case was registered against the applicant for trivial offence in the year 2005 and after an appeal being preferred, the applicant was acquitted of the same. He further contended that this is not a case where the applicant has suppressed the fact about pendency of criminal case and offences which have been alleged do not constitute the moral turpitude. Further, in the year 2005 the applicant was a minor and an act committed while the applicant was still a minor cannot be relied upon for punishing the applicant for all times to come so as to debar him from continuing in Government service. He further contended that the applicant was not provided with an opportunity of hearing by way of any show-cause notice, thus, the respondent-department violated the principle of natural justice.

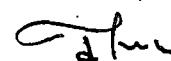
5. Per contra, counsel for the respondents contended that even if the applicant is acquitted in criminal case then also the fate will not change because on the date when verification form was filled, i.e. on 20.12.2011 criminal case was pending against him. Otherwise also, even if applicant is acquitted, then also it was obligatory on the part of the applicant to disclose the correct facts, but he concealed the fact of criminal case pending against him and this position is to be seen when applicant has submitted the application form. He further contended that the question is not that offence in which applicant was involved, not constituting the moral turpitude, but the fact



remains that he concealed and suppressed the facts in verification form, therefore, conduct of the applicant is not fair whereas in the verification form and offer of appointment it has been clearly mentioned that if on verification of character & antecedents of the applicant were not found correct, then his services can be terminated and when it was found that applicant has concealed and suppressed the fact about the pendency of criminal case, the respondent-department has got every right to terminate the services of the applicant without any notice.

7. I have considered the rival contention of both the parties and also perused the relevant record. Although the applicant has been acquitted of the alleged offences against him vide judgment dated 03.03.2012 which does not constitute moral turpitude, but he admittedly suppressed and concealed this information from the respondent-department at the time of filing of verification form (R/1). The applicant was under obligation to disclose correct information in the character and antecedent form, which is a grave misconduct on the part of the applicant. Therefore, in my considered view, the respondent-department has rightly terminated the services of the applicant after receipt of report on verification of character & antecedents and since the applicant was still under training it was not necessary for the respondent-department to issue any notice before termination of services of the applicant on account of this particular misconduct.

8. Accordingly, OA lacks merit and the same is dismissed with no order as to costs.



(JUSTICE K.C.JOSHI)
Judicial Member

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